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**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT CALIFORNIA OF SAN FRANCISCO DIVISION**

In re:  
PG&E CORPORATION  
-and-  
PACIFIC GAS AND ELECTRIC  
COMPANY,  
☐ Affects PG&E Corporation  
☐ Affects Pacific Gas and Electric Company  
☒ Affects both Debtors

Case No.: 19-30088 (DM)

Chapter 11  
(lead case)  
(jointly administered)

**MOTION TO ALLOW/DEEM  
TIMELY LATE FILING OF  
PROOF OF CLAIM BY GARY  
LYNN KOCH AND LORRAINE  
KOCH, MEMORANDUM OF  
POINTS AND AUTHORITIES;  
DECLARATION OF REGINA  
BAGDASARIAN IN SUPPORT**

**Date:** TBD  
**Time:** TBD  
**Place:** United States Bankruptcy Court  
Courtroom 16, 17<sup>th</sup> Floor  
San Francisco, CA 94102

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1 TO THE HONORABLE DENNIS MONTALI, UNITED STATES BANKRUPTCY COURT  
2 JUDGE, THE OFFICE OF THE UNITED STATES TRUSTEE, AND ALL INTERESTED  
3 PARTIES:

4 Frantz Law Group, APLC represents thousands of victims of the Fires started by PG&E  
5 in 2017 (generally referred to as the “North Bay Fires”), 2018 (“Camp Fire”) and 2019  
6 (“Kincade Fire”). Frantz Law Group, APLC respectfully files this motion on behalf of David  
7 Montgomery and Linnise Montgomery (“Movants”) to deem timely late filing of proofs of  
8 claims (“Motion”).

9 **I. SUMMARY OF ARGUMENT**

10 A proof of claim may be deemed timely upon a showing of excusable neglect and lack of  
11 prejudice. In this case, due to a variety of stressors arising from the Camp Fire, as well as a  
12 misunderstanding as to the legitimacy of their claims, Movants were unable to timely file their  
13 proof of claim. Because there is no danger of prejudice to the Debtors as Debtors’ estates are  
14 solvent, and all creditors stand to be paid, the Motion should be granted to allow these survivors  
15 to have their claim deemed timely. This Court must determine whether to grant the Motion.

16 **II. FACTUAL BACKGROUND**

17 Movants are Camp Fire Survivors. Movants were consistently told they did not have a  
18 claim because their house did not burn down completely. Movants are an elderly couple who did  
19 not know their rights in regard to filing a claim. They assumed and were told by other counsel  
20 that since their home wasn’t a total burn down, they did not have a claim. After the Movant were  
21 told they did not have a claim, they attempted to reestablish their lives on their own. However,  
22 unfortunately, Movants realized it is difficult to do so.

23 Movants were misinformed about the law and did not know their rights until they sought  
24 legal advice from Frantz Law Group. Accordingly, FLG filed a claim on behalf of Movants. A  
25 true and correct copy of the Subject Proof of Claim is attached to the Declaration as Exhibit “1.”

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### III. LEGAL ARGUMENT

In Chapter 11 proceedings, bankruptcy courts have broad discretion to accept late filings, including proofs of claim, where tardiness is the consequence of “excusable neglect.” Fed. R. Bank. Pro. 9006(b)(1). This standard is “flexible,” and permits the Court to allow “late filings caused by inadvertence, mistake, or carelessness, as well as by intervening circumstances beyond the party’s control.” *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P’ship*, 507 U.S. 380, 389 (1993). Where the party’s delay is caused by overwhelming personal distress, a late filing may be allowed on grounds of excusable neglect. See e.g., *In re Nw. Territorial Mint, LLC*, No. AP 16 1217-CMA, 2018 WL 6187762, at \*5 (B.A.P. 9th Cir. Nov. 27, 2018) (“Excusable neglect can include sudden death, disability or illness of counsel, a close family member of counsel, or . . . the party.”); *In re Schultz*, 254 B.R. 149, 154 (B.A.P. 6th Cir. 2000) (same); *TCI Group Life Ins. Plan v. Knoebber*, 244 F.3d 691, 699 (9th Cir. 2001) (excusable neglect where party was experiencing extreme personal difficulties and was “distraught”) (overruled on other grounds); *Comm. for Idaho’s High Desert, Inc. v. Yost*, 92 F.3d 814, 824 (9th Cir. 1996) (holding that “compelling circumstances” in one’s personal life may constitute excusable neglect).

The test for excusable neglect is “at bottom an equitable [inquiry].” *Pioneer Inv. Servs. Co.*, 507 U.S. at 395. Courts in the Ninth Circuit generally examine four (4) factors in their analysis: (i) the danger of prejudice to the non-movant, (ii) the length of delay and its potential impact on the judicial proceedings, (iii) the reason for the delay, and (iv) whether the movant acted in good faith. See *id.* Each of these four factors weighs heavily in favor of Movants. Accordingly, their late proof of claims should be deemed timely.

In our present case, there will be no prejudice to PG&E by the Movant’s claim. The value of the Movants claims is marginal relative to the Debtors’ estates and the allowance of those claims will not disrupt the reorganization or distribution process. Debtors’ estates are solvent, and all creditors stand to be paid. See, e.g., *In re Best Payphones, Inc.*, 523 B.R. 54, 75-6 (Bankr. S.D.N.Y. 2015) and *In re Sheehan Mem’l Hosp.*, 507 B.R. 802, 803 (Bankr. W.D.N.Y. 2014)

1 (where the chapter 11 estate is solvent, “the proper remedy for a late filing is not the  
2 expungement of a claim, but its allowance as a tardily filed claim only.).

3 Second, despite the late filing, the Movant’s claim will have essentially zero impact on  
4 the judicial proceedings and will not change PG&E’s reorganization process. There are tens of  
5 thousands of similarly situated claimants as the Movant, whose claims will be placed among  
6 them, resulting in no noticeable impact upon the distribution process. See e.g., *In re Dix*, 95 B.R.  
7 134, 138 (B.A.P. 9th Cir. 1988) (allowing proof of claim filed two-years late because “there is  
8 no indication [of] a negative impact on efficient court administration”); *In re Earth Rock, Inc.*,  
9 153 B.R. at 63 (finding excusable neglect where eight-month delay would not impact  
10 reorganization proceedings).

11 Third, the factual circumstances in the Movant’s claim warrants excusable neglect. As  
12 explained above, Movants were consistently told they do not have a valid claim since their home  
13 did not burn down while other homes did. They were told by other counsel that they should not  
14 try to pursue the claim, and due to their older age, they did not question it until they heard others  
15 who were not burnt down were able to recover for their losses. Movant suffers daily with their  
16 feelings after the fire with post-traumatic stress disorder as a result of the fire. Post-traumatic  
17 stress disorder symptoms may start within one month of a traumatic event, but sometimes  
18 symptoms may not appear until years after the event.<sup>1</sup> These symptoms cause significant  
19 problems in social or work situations and in relationships.<sup>2</sup> They can also interfere with a  
20 person’s ability to go about their normal daily tasks.<sup>3</sup>

23 PTSD symptoms can vary in intensity over time. Someone may have more PTSD  
24 symptoms when they are generally stressed, or when they come across reminders of a traumatic  
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27 <sup>1</sup> Post-traumatic stress disorder (PTSD) - Symptoms and causes, Mayo Clinic (July 6, 2018),  
[www.mayoclinic.org/diseases-conditions/post-traumatic-stress-disorder/symptoms-causes/syc-20355967](http://www.mayoclinic.org/diseases-conditions/post-traumatic-stress-disorder/symptoms-causes/syc-20355967).

28 <sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.*

1 event they experienced.<sup>4</sup> In terms of wildfire victims, many feel stress, anxiety and panic when  
2 they smell even the slightest smoke, because it triggers a traumatic memory of their experience.  
3 Some even wake up multiple times at night to make sure there is not a fire nearby. In the present  
4 case, Movants were suffering the loss of a community, and being told they do not have a valid  
5 claim although they were struggling to pick up the pieces after the fire.  
6

7 Another common symptom of PTSD is avoiding things that remind someone of the event.  
8 <sup>5</sup> For wildfire victims, this can include putting off filing a lawsuit in order to try to move on from  
9 the traumatic event. Unfortunately, for these types of wildfire victims, years later, they come to  
10 the realization that it is not possible to simply start over after the fire. A lot of wildfire victims  
11 have lost their homes, everything they own, their jobs, and their community. With a limited or no  
12 income at all, most wildfire victims are unable to rebuild and move on as they were trying to do.  
13 Similarly, here, Movant was told she did not have a claim, so she decided to try to move on and  
14 do whatever she can. As a result, due to excusable unawareness, the Movant did not timely file a  
15 proof of claim for their 2018 damages until after the bar date. See e.g., *Comm. for Idaho's High*  
16 *Desert, Inc. v. Yost*, 92 F.3d 814, 824 (9th Cir. 1996) (“compelling circumstances” in one’s  
17 personal life may constitute excusable neglect). After realizing the legitimacy of her claims and  
18 how difficult it is to start over, Movants contacted Frantz Law Group, APLC to evaluate their  
19 claim. During the normal course of due diligence, Frantz Law Group, APLC inquired about  
20 possible damages from the 2018 Camp Fire.  
21  
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24 It would be unfair for the plaintiff to not be able to file their claim. Although their house  
25 did not burn down, that does not mean they did not suffer. Movants, like all other wildfire  
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28 <sup>4</sup> *Ibid.*

<sup>5</sup> [About Face booklet \(va.gov\)](https://www.va.gov)

1 survivors, endured great trauma. Importantly, Movant's claim is made in good faith. The  
2 aftermath of the fire caused the Movant to struggle mentally, physically, and emotionally. Due to  
3 Movant's misinformation about the law, they did not understand the legitimacy of their claims  
4 which resulted in the Movant not filing a claim in time. Had Movant been properly informed that  
5 they could still file a claim even though their house didn't fully burn down, or even aware of the  
6 bar date, Movants would have timely filed a proof of claim.  
7

#### 8 IV. CONCLUSION

9 For the foregoing reasons, this Motion should be granted, and the Movants claim should  
10 be deemed timely.  
11

12 Dated: August 31, 2022


By: /s/ James P. Frantz  
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I, Regina Bagdasarian, declare as follows:

1. I am an individual over 18 years of age and competent to make this Declaration.
2. If called upon to testify, I could and would competently testify as to the facts set forth in this Declaration. The facts set forth below are true based on my personal knowledge or through information obtained my staff.
3. I am an attorney of the law firm Frantz Law Group, APLC and I make this declaration in support of the Motion to Allow/Deem Timely Late Filing of Proof of Claim.
4. Creditor Gary Lynn Koch and Lorraine Gail Koch are survivors of the Camp Fire that occurred in 2018.
5. Movants resided at 14831 Wood Drive, Magalia, CA 95954.
6. Movants did not file a claim sooner because they were misinformed about their standing; they were told they did not have a claim since they rented their home and their home did not burn down.
7. Movants were misinformed about the legitimacy of his claims.
8. In August 2022, Movants retained FLG.

I declare under penalty of perjury that the foregoing is true and correct. Executed on August 31, 2022.

/s/   
Regina Bagdasarian

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/s/   
Regina Bagdasarian